

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

MALIK SHABAZZ,

Petitioner,

-against-

9:23-CV-1617 (LEK)

M. KOPP,

Defendant.

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**DECISION AND ORDER**

Petitioner Malik Shabazz seeks federal habeas relief pursuant to 28 U.S.C. § 2254. Dkt. No. 1 (“Petition”). Respondent M. Kopp opposes the Petition. Dkt. No. 14 (“Response”). On July 22, 2024, Petitioner filed a motion to stay the Petition so that he may “properly exhaust all remedies.” Dkt. No. 18 (“Motion”) at 1. Respondent filed a response in opposition to the Motion. Dkt. No. 21.

“[A] district court has discretion to hold [a] petition in abeyance to permit a petitioner to exhaust the unexhausted claims, provided that the ‘petitioner had good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that [he] engaged in intentionally dilatory litigation tactics.’” *Knight v. Colvin*, No. 17-CV-2278, 2019 WL 569032, at \*3 (E.D.N.Y. Feb. 11, 2019) (quoting *Rhines v. Weber*, 544 U.S. 269, 278 (2005)).

Petitioner’s Motion states only that he “respectfully request[s] that this matter is held in abeyance, in order for [him] to properly exhaust all remedies.” Mot. at 1. Petitioner does not state which claims he seeks to exhaust, nor does he state any basis for the Court to find good cause for his failure to exhaust the unidentified claims sooner.. As such, the Court cannot determine that

good cause exists for his failure to exhaust. The Motion is denied. *See Martinez v. New York State Dep't of Corr. & Cmty. Supervision*, No. 17-CV-428, 2017 WL 11712620, at \*1 (N.D.N.Y. Oct. 4, 2017) (denying a motion to stay a habeas petition to permit exhaustion of remedies “without need to determine whether his unexhausted claims are plainly meritless” because no good cause exists).

Petitioner requests, should this Motion be denied, an extension of time to file a reply to the Response. Mot. at 1. However, Petitioner also requests that his Petition be withdrawn without prejudice if the Motion is not granted. *Id.* at 1. Although the Court stayed the reply deadline pending the outcome of the Motion, Dkt. No. 20, Petitioner nevertheless filed a reply brief, Dkt. No. 22. Accordingly, the Court will consider the Petition fully briefed, and it will be decided in due course. Should Petitioner wish to withdraw the Petition, he must file a new letter request.

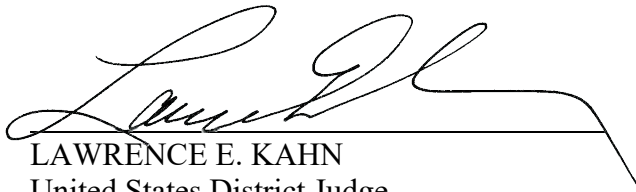
Accordingly, it is hereby:

**ORDERED**, that Petitioner’s Motion, Dkt. No. 18, is **DENIED**; and it is further

**ORDERED**, that the Clerk serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: March 24, 2025  
Albany, New York

  
LAWRENCE E. KAHN  
United States District Judge